



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**URGENT LEGAL MATTER  
REQUIRES PROMPT RESPONSE**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**DEC 11 2014**

David Glendon, President and CEO  
Sprague Operating Resources, LLC  
185 International Drive  
Portsmouth, NH 03801

Re: Notice of Violation

Dear Mr. Glendon:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing Sprague Operating Resources, LLC ("Sprague") the enclosed Notice of Violation ("NOV") for violations of the Clean Air Act. This NOV supplements a prior Notice of Violation dated April 16, 2014.

The NOV addresses EPA's findings that Sprague has violated and is still in violation of requirements in the Maine State Implementation Plan regarding stationary source modification, including certain New Source Review provisions. The violations occurred at Sprague's facility located in South Portland, Maine.

You may confer with EPA about the enclosed NOV and its findings. To schedule a conference, please contact Elizabeth Kudrauskas of my staff at (617) 918-1564 or have your legal counsel contact Thomas Olivier of my staff at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.

Sincerely,

A handwritten signature in cursive script, reading "Susan Studlien", is positioned above the typed name.

Susan Studlien, Director  
Office of Environmental Stewardship

Enclosure

cc: Kurt Tidd, MEDEP (via email)  
Dixon Pike, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 – NEW ENGLAND**

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IN THE MATTER OF )

Sprague Operating Resources, LLC )  
Two International Drive, Suite 200 )  
Portsmouth, NH 03901 )

Proceeding under Section )  
113 of the Clean Air Act )

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**NOTICE OF VIOLATION**

**STATUTORY AUTHORITY**

1. The United States Environmental Protection Agency, Region 1 (“EPA”) issues this Notice of Violation (“NOV”) to Sprague Operating Resources, LLC (“Sprague”) under the authority of Section 113(a)(1) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7413(a)(1), for violations of the Act at Sprague’s facility in South Portland, Maine (the “South Portland Facility”). The NOV describes EPA’s findings that Sprague has violated and continues to violate the Act and the federally-enforceable Maine state implementation plan (“SIP”).
2. The Maine SIP includes various federally-approved portions of Air Pollution Control regulations, Chapters 100 et al. (“ME APC Regulations”), which were promulgated by the Maine Department of Environmental Protection (“ME DEP”).<sup>1</sup> These requirements are enforceable by EPA under Section 113 of the Act.
3. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), requires that whenever EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable

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<sup>1</sup> The federally-enforceable versions of the ME APC Regulations contained in the SIP, which can be found on EPA’s website at [http://www.epa.gov/region1/topics/air/sips/sips\\_me.html](http://www.epa.gov/region1/topics/air/sips/sips_me.html), are cited herein. The comparable Maine rules can be viewed at <http://www.maine.gov/dep/air/rules/index.html>.

SIP, EPA shall notify the person of such finding.

4. On April 16, 2014, EPA issued Sprague a Notice of Violation concluding that Sprague had violated the SIP at its facilities in Searsport and South Portland, Maine. This NOV supplements the prior April 16, 2014 Notice of Violation.

### **FACTUAL BACKGROUND**

5. Sprague owns and operates a petroleum bulk terminal facility located at 59 Main Street in South Portland, Maine. Among other activities at the South Portland Facility, Sprague stores and distributes #6 fuel oil and asphalt, activities that emit VOCs.

6. On July 28, 2011 EPA inspectors performed an inspection at the South Portland Facility.

7. On December 23, 2010, September 27, 2011 and March 29, 2012, EPA issued Clean Air Act Reporting Requirements and Testing Orders to Sprague.

8. Sprague submitted timely responses to the Reporting Requirements.

9. In response to the Reporting Requirement issued March 31, 2012, Sprague submitted information detailing the following physical and operational changes to the South Portland Facility.

10. In 2000 Sprague performed maintenance on the asphalt system piping, blend system and loading racks.

11. In 2001 Sprague converted Tank 9 from distillate to asphalt storage, including insulating the tank and installing coils.

12. In 2004 Sprague replaced a section of asphalt dockline to restore pumping efficiency.

13. In 2006 Sprague installed an asphalt blender to improve blending capability and restore efficiency, and reconfigured piping to meet product movement requirements.



14. In 2007 Sprague converted Tank 7 from distillate to residual oil by insulating the tank, installing coils, and installing a steam generator.

### **LEGAL FINDINGS AND NOTICE OF VIOLATION**

15. Under the SIP at Chapter 115, § II.A, no person shall emit or cause to be emitted air contaminants from any source without an air emission license unless the source is exempt under Section II.C.

16. Under the SIP at Chapter 115, § II.B, no person shall commence construction of any source or modify an existing source without a license unless the source is exempt under Section II.C.

17. The South Portland Facility and its emissions units described above in paragraphs 10-14 are not exempt from licensing under the SIP at Chapter 115, § II.C.

18. The physical and operational changes to the emissions units described in paragraphs 10-14 were modifications to an existing facility that required license amendments.

19. Prior to constructing the modifications to the South Portland Facility, Sprague failed to apply for and obtain license amendments establishing the “best available control technology” (“BACT”) for the affected emissions units.

20. Accordingly, Sprague has violated and continues to violate Chapter 115, §§ II.A and B of the SIP, by commencing construction of modifications without air emissions license amendments, and by emitting air contaminants without air emissions license amendments and without complying with BACT.

## **ENFORCEMENT**

21. EPA may take any or all of the following actions: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to \$37,500 per day for each violation. See Sections 113(a), (b) and (d) of the Act, 42 U.S.C. §§ 7413(a), (b) and (d), and 40 C.F.R. Part 19 as amended by 73 Fed. Reg. 75340-46 (Dec. 11, 2008) (Clean Air Act judicial and administrative penalties raised from up to \$25,000 to \$37,500 per day effective January 12, 2009). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue or recur on or after the date of issuance of a notice of violation.

22. If Sprague has knowingly violated the requirements of the Act, Sprague and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

23. Be advised that issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law which are available to address these violations.

## **OPPORTUNITY TO CONFER**

24. Sprague may confer with EPA concerning this NOV and the findings on which it is based. To schedule a conference, or to ask any questions, please contact Senior Enforcement Counsel Thomas T. Olivier at (617) 918-1737, or Environmental Engineer Elizabeth Kudarauskas at (617) 918-1564.

**EFFECTIVE DATE AND APPLICABILITY**

25. This NOV is effective as of the date signed below. The provisions of this NOV apply to Sprague, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Sprague. The NOV is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Susan Studlien

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

12/08/14

Date